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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,093	01/02/2001	Jonathan L. Lei	23803-250394	1317

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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3676

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/753,093

Applicant(s)

LEI, JONATHAN L.

Examiner

Carlos Lugo

Art Unit

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 84-92 and 105-127 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 84-92 and 105-127 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on November 28, 2005.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 84-90, 105-111, and 114-127 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,430,576 to Gates et al (Gates) in view of US Pat No 6,442,532 to Kawan and further in view of US Pat No 5,845,282 to Alley et al (Alley).

Regarding claims 84, 105, and 114-117, Gates discloses a self contained capsule (object, Col. 1 Line 44 to Col. 2 Line 57) comprising a machine readable storage medium including data and a machine readable program code, storage on the machine readable storage medium having instructions (methods).

The instructions, when executed, initiate interaction between the participant and the capsule by receiving input (when the object is send to the clients), modify the data by receiving input to create modified data (when the client modified the object), and transfer the entire capsule, which includes the modified data and the code, from one device to another participants (from Col. 6 Line 10).

However, Gates fails to disclose the use of wireless devices to interact with the capsule. Gates discloses that the capsule interacts with a server and with client computers. Kawan teaches that it is well known in the art to provide a wireless server (150) so as to connect a user with a server using wireless communication.

Alley teaches that it is well known in the art to transfer information between a server (166) and a wireless device (108).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the capsule system described by Gates, with wireless communication, as taught by Kawan and Alley, in order to provide an easy communication between the participants.

As to claims 85 and 106, Gates discloses that when the instruction are executed, it cause the device (server) to copy the capsule to other participants (clients A, B or C).

As to claims 86,87,107,108,119,122,123,125 and 126, Gates, as modified by Kawan and Alley, teaches that device is capable to access functionally with other devices utilizing a peer-to-peer topology for data transmission and the entire capsule (by using the wireless communication).

As to claims 88,89,109,110,121,124 and 127, Gates discloses that the instruction when executed, cause the device (either the server or the client's computers) to access functionally in a remote mobile system (network) for data transmission.

As to claims 90 and 111, Gates discloses that the capsule activates automatically one a certain event occurs (when the client modified the object, it would be send

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automatically to the server so that the server can update the object and send it to the other clients).

As to claim 118, Gates discloses that the transfer utilizes instructions from the machine-readable code of the capsule to initiate the transfer and does not utilize external utilities of the device.

4. **Claims 91,92,112, and 113 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,430,576 to Gates et al (Gates) in view of US Pat No 6,442,532 to Kawan and further in view of US Pat No 5,845,282 to Alley et al (Alley) as applied to claims 90 and 111 above, and further in view of Bluetooth.

Gates, as modified by Kawan and Alley, fails to disclose the use of short-range radio waves.

Bluetooth teaches that is known in the art to have a portable electronic device of short-range.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a Bluetooth wireless networking protocol, as taught by Bluetooth, into a portable electronic system as described by Gates, as modified by Kawan and Alley, in order to have a better communication.

### ***Response to Arguments***

5. The finality of the last Office Action mailed on July 22, 2005 has been withdrawn because the rejection was improper since the rejection in view of Amazon was previously withdrawn. However, upon further search and consideration, a new

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rejection to the claims has been made on record in view of Gates, as modified by Kawan and Alley.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.-

Carlos Lugo  
AU 3676

  
**BRIAN E. GLESSNER**  
SUPERVISORY PATENT EXAMINER

December 9, 2005.